

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

HARRY DAVIS; RITA-MARIE GEARY;)
PATTY POOLE; and ROBERTA)
WALLACH, on behalf of themselves)
and all others similarly situated,)

Plaintiffs)

v.)

NIRAV SHAH, individually and in his)
official capacity as Commissioner of the)
New York State Department of Health,)

Defendant)

**MOTION FOR CLASS
CERTIFICATION**

Upon the annexed declaration of Geoffrey Hale, Esq., the annexed Memorandum of Law in Support of Class Certification, and upon all the papers filed and all proceedings had herein, Plaintiffs will move at a time and date to be determined by the United States District Judge for the Western District of New York to which the above-captioned case is assigned, in a courtroom of the United States Courthouse, 100 State Street, Rochester, New York, also to be determined by the Court, for an Order:

(i) Granting Plaintiffs' motion pursuant to Fed. R. Civ. P. 23(b)(2) and certifying the following plaintiff class:

All current and future New York State Medicaid recipients who have had or will have coverage of medically necessary orthopedic footwear and compression stockings denied, delayed, disrupted, or reduced by Defendant directly or through his agents or assigns as a result of New York Soc. Serv. Law 365-a(2)(g)(iii) and (iv) and regulations and policies promulgated thereto.

(ii) Appointing attorneys Bryan Hetherington, Jonathan Feldman, and Geoffrey Hale of Empire Justice Center, and attorneys Sarah Somers and Jane Perkins of the National Health Law Program as counsel for the certified class.

PLEASE TAKE NOTICE THAT Plaintiffs intend to serve reply papers, and that, unless the scheduling Order provides otherwise, pursuant to Local Rule 7.1. (c), responding papers, if any, shall be served within 8 business days prior to the return date. Reply papers shall be served within 3 business days prior to the return date.

Dated: Rochester, New York
March 14, 2012

Respectfully submitted,

Empire Justice Center
1 West Main Street, Suite 200
Rochester, New York 14614
Telephone: (585) 454-4060

/s/ Bryan Hetherington
Bryan Hetherington, Esq.
bhetherington@empirejustice.org

/s/ Jonathan Feldman
Jonathan Feldman, Esq.
jfeldman@empirejustice.org

/s/ Geoffrey Hale
Geoffrey Hale, Esq.
ghale@empirejustice.org

National Health Law Program, Inc.
101 East Weaver St., Suite G-7
Carrboro, North Carolina 27510
Telephone: (919) 968-6308

/s/ Jane Perkins
Jane Perkins, Esq.
Pro Hac Vice Application Pending
perkins@healthlaw.org

/s/ Sarah Somers

Sarah Somers, Esq.

Pro Hac Vice Application Pending

ssomers@healthlaw.org

Counsel for Plaintiffs